

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,

Plaintiff,

v.

1633 HOLLY LANE, EAST
WENATCHEE, WASHINGTON,
TOGETHER WITH ALL
APPURTENANCES, FIXTURES,
ATTACHMENTS, AND IMPROVEMENTS
THERE TO AND THEREUPON,

Defendant.

NO. CV-09-391-EFS

**ORDER UNSTAYING CASE, GRANTING
USAO'S MOTION FOR ENTRY OF THE
FINAL ORDER OF FORFEITURE, AND
CLOSING THE FILE**

Before the Court, without oral argument, is the U.S. Attorney's Office's (USAO) Motion for Entry of the Final Order of Forfeiture, ECF No. [54](#). The USAO seeks entry of a final order of forfeiture in the above-captioned matter, pursuant to the parties' Settlement Agreement and Stipulation for Order of Forfeiture of Substitute Res, ECF No. [40](#). Claimant Altagracia Moreno does not oppose the motion.

The USAO filed a Verified Complaint for Forfeiture In Rem on December 29, 2009, alleging that the defendant property was subject to forfeiture to the United States pursuant to 21 U.S.C. § 881. ECF No. [1](#). The defendant real property is located at 1633 Holly Lane, East Wenatchee, Washington, and is legally described in the Verified Complaint for Forfeiture In Rem, ECF No. [1](#). The above court has jurisdiction over

1 this matter by virtue of 28 U.S.C. §§ 1345 and 1355. Venue is proper
2 pursuant to 28 U.S.C. § 1395.

3 On February 24, 2010, Altagracia Moreno ("Claimant Moreno") filed
4 a claim. ECF No. [7](#). She filed an answer on March 4, 2010. ECF No. [8](#).
5 On March 18, 2010, the U.S. Marshals Service posted notice of this
6 forfeiture action as noted on form USM-285 filed herein. ECF No. [49](#). On
7 March 30, 2010, JP Morgan Chase Bank, N.A. ("Claimant Chase") filed a
8 claim and answer. ECF No. [10](#). The United States and Claimant Chase
9 subsequently entered into an Expedited Settlement Agreement, regarding
10 Claimant Chase's interest in the Defendant real property. ECF No. [25](#).

11 On June 23, 2010, upon joint motion of the USAO and Claimants Moreno
12 and Chase, the Court stayed this matter pending the resolution of the
13 related federal criminal case, *United States v. Bernave Moreno-Carrasco*,
14 No. CR-09-2110-WFN (E.D. Wash. filed Dec. 8, 2009). ECF No. [20](#).
15 Approximately ten months later, on April 19, 2011, Judge Wm. Fremming
16 Nielsen entered judgment in that related criminal case, which included
17 forfeiture of Bernave Moreno-Carrasco's interest in the Defendant real
18 property in this action. ECF No. [668](#). Although the instant case has
19 proceeded since that time, the stay was never lifted. Accordingly, the
20 Court now lifts its earlier stay *nunc pro tunc* to April 19, 2011, the
21 date Judge Nielsen entered judgment in the related criminal case.

22 On July 24, 2012, the USAO filed and served a Notice of Motion for
23 Default upon Bernave Moreno Carrasco. ECF No. [45](#). On August 9, 2012,
24 the United States filed and served a Motion for Entry of Default as to
25 Bernave Moreno Carrasco. ECF No. [46](#). On August 10, 2012, a Clerk's
26 Order of Default was entered as to Bernave Moreno Carrasco. ECF No. [48](#).

1 In a Settlement Agreement and Stipulation for Order of Forfeiture
2 of Substitute Res, filed on December 29, 2011, ECF No. [40](#), Claimant
3 Altagracia Moreno, agreed to the forfeiture of half of the net sale
4 proceeds as substitute res in lieu of forfeiture of the Defendant real
5 property, after payment of expenses to include Claimant Chase's lien on
6 the Defendant real property. Claimant Moreno also agreed in the
7 settlement agreement and stipulation to the entry of an order of
8 forfeiture forfeiting the substitute res to the United States, without
9 further notice or hearing. *Id.*

10 On October 19, 2012, a Notice of Receipt of Substitute Res was filed
11 indicating that on or about September 18, 2012, the U.S. Marshals Service
12 received funds in the amount of \$59,084.32, which represents half of the
13 net proceeds from the sale of the Defendant real property. ECF No. [53](#).

14 It appears to the Court that USAO and Claimant Moreno have
15 stipulated to the forfeiture of substitute res in lieu of forfeiture of
16 the Defendant real property, and the agreed-upon substitute res has been
17 provided to the United States. It also appears that there are no
18 additional timely claims against the Defendant real property. Having
19 reviewed the pleadings filed in connection with this matter, the Court
20 is fully informed and finds good cause to enter a final order of
21 forfeiture.

22 Accordingly, **IT IS HEREBY ORDERED:**

- 23 1. The stay of this matter, which the Court previously imposed on
24 June 23, 2010, ECF No. [20](#), is hereby **LIFTED** *nunc pro tunc* to
25 April 19, 2011.

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2. The USAO's Motion for Entry of the Final Order of Forfeiture, ECF No. [54](#), is GRANTED.

3. The substitute *res*, in the amount of \$59,084.32, is hereby forfeited to the United States.

4. The U.S. Marshals Service shall dispose of the substitute res
in accordance with the law.

5. This Clerk's Office shall **CLOSE** this file.

IT IS SO ORDERED. The Clerk's Office is directed to enter this Order and distribute copies to counsel.

DATED this 29th day of October 2012.

s/Edward F. Shea
EDWARD F. SHEA
Senior United States District Judge